



FEDERAL ELECTION COMMISSION
WASHINGTON, D C 20463

November 8, 1996

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Vincent F. Heuser, Jr., Esquire
P. O. Box 35111
Louisville, KY 40232

RE: MUR 4012
Freedom's Heritage Forum and
Arthur A. Cerminara, Treasurer;
Frank Simon, MD et al.

Dear Mr. Heuser:

On July 28, 1994, the Federal Election Commission notified Frank Simon, MD, your client, of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended ("the Act). A copy of the complaint was enclosed with that notification.

Upon further review of the allegations contained in the complaint, and information supplied by subpoenas, the Commission, on October 29, 1996, found that there is reason to believe your client, Frank Simon, MD, as treasurer of the Freedom's Heritage Forum, violated 2 U.S.C. §§ 434(b); 434(c); 441a(a)(1)(A); and 441d(a)(3) provisions of the Act. The Factual and Legal Analysis, which formed a basis for the Commission's finding, is attached for your information.

You may submit any factual or legal materials that you believe are relevant to the Commission's consideration of this matter. Please submit such materials to the General Counsel's Office within 15 days of receipt of this letter. Where appropriate, statements should be submitted under oath. In the absence of additional information, the Commission may find probable cause to believe that a violation has occurred and proceed with conciliation.

If you are interested in pursuing pre-probable cause conciliation, you should so request in writing. See 11 C.F.R. § 111.18(d). Upon receipt of the request, the Office of the General Counsel will make recommendations to the Commission either proposing an agreement in settlement of the matter or recommending declining that pre-probable cause conciliation be pursued. The Office of the General Counsel may recommend that pre-probable cause conciliation not be entered into at this time so that it may complete its investigation of the matter.

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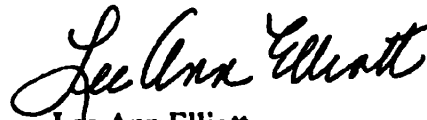
Further, the Commission will not entertain requests for pre-probable cause conciliation after briefs on probable cause have been mailed to the respondent.

Requests for extensions of time will not be routinely granted. Requests must be made in writing at least five days prior to the due date of the response and specific good cause must be demonstrated. In addition, the Office of the General Counsel ordinarily will not give extensions beyond 20 days.

This matter will remain confidential in accordance with 2 U.S.C. §§ 437g(a)(4)(B) and 437g(a)(12)(A), unless you notify the Commission in writing that you wish the investigation to be made public.

If you have any questions, please contact Dominique Dillenseger, the attorney assigned to this matter, at (202) 219-3690.

Sincerely,



Lee Ann Elliott
Chairman

Enclosure

Factual and Legal Analysis

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FEDERAL ELECTION COMMISSION

FACTUAL AND LEGAL ANALYSIS

RESPONDENTS: Freedom's Heritage Forum and
Frank Simon, M.D., as treasurer

MUR: 4012

This matter was generated by a complaint filed with the Federal Election Commission ("Commission") by Maureen Keenan. See 2 U.S.C. § 437g(a)(1).

On July 18, 1995, the Commission found reason to believe that the Freedom's Heritage Forum ("Forum") and Arthur Cerminara, as treasurer, violated 2 U.S.C. §§ 434(b); 434(c); 441a(a)(1)(A); and 441d(a)(3). The Factual and Legal Analysis which sets out the basis for these findings is incorporated herein.

Dr. Frank Simon, the founder and president of the Forum, has been listed as the "Custodian of Records" with the title of "Treasurer" on all Statements of Organization filed by the Forum. Committee reports also reflect that until 1996, Dr. Simon prepared and signed all correspondence to the Commission pertaining to Forum reports. Dr. Simon has stated that, as the Forum's sole officer, he essentially runs the Forum from his home or office and that he directs Forum volunteers and controls Forum finances. Dr. Simon has also stated that he is the only individual authorized to sign checks and make disbursements on behalf of the Forum. Arthur Cerminara has stated that he signs Forum reports at Dr. Simon's office and that he is not involved in the Forum's finances and does not prepare, fill out, or review any reports. Based on the above, it appears that Dr. Simon, as the "Custodian of Records" with the title "Treasurer," has in fact been performing the underlying duties of the treasurer. Therefore, the findings previously made against the Freedom's Heritage Forum should also run against Dr. Simon. Therefore, there is reason to believe Frank Simon, M.D., as treasurer, violated 2 U.S.C. §§ 434(b); 434(c); 441a(a)(1)(A); and 441d(a)(3).

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